

BEFORE THE SOUTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

Brenton Darrell Glisson, M.D.,

Medical License #19607,

(M-09-05) Respondent.

FINAL ORDER

This matter came before the Board of Medical Examiners (the Board) for hearing on May 22, 2006, as a result of the Notice and Complaint served upon the Respondent and filed on July 14, 2005. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. §§40-47-200 and 211 to determine whether sanctions should be imposed based upon the Certified Report of the Disciplinary Panel, which panel had heard the charges on January 18, 2006, and filed a certified report of the proceedings together with a transcript of the testimony taken and exhibits entered into evidence. Marvin G. Frierson, Esquire, represented the State. Stephen John Henry, Esquire, represented the Respondent.

The Respondent was charged with violation of S.C. Code Ann. §§40-47-200(F)(6), (7), (8), and (12), and Regulations No. 81-60(A), (C), and (D) of the Rules and Regulations of the Board of Medical Examiners.

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a physician duly licensed to practice medicine in South Carolina. His license was temporarily suspended on July 14, 2005.
2. Patient 1 (patients and witnesses are known to the Respondent, but will be identified by numbers and initials) became a patient of the Respondent's in the summer of 2004. She received various prescriptions from the Respondent, and continued as his patient until the end of the events related here. The patient testified that the Respondent called her in late July. She testified that they went to the Respondent's home where they had sex. She stayed the night, spent some time with him the next morning,

and then returned to her car which had been left at a restaurant. She testified that several days later, she again met the Respondent, and they went to his house. She testified to sexual acts with the Respondent in the car and upon arriving at his home. She testified that approximately a week and a half later, she again had sex with the Respondent and spent the night at his home. The Respondent denied having sex with Patient 1, and stated that the patient was stalking him. We find that the Respondent and his psychiatric patient did engage in sexual activities.

3. The Respondent treated Patient 2, age 15, in September 2004. The patient was a court-ordered referral who had sexual problems. He was seen with his mother. Although the Respondent and the other witnesses differ as to the exact wording of the Respondent's statement, the Respondent admits that a statement was made. The patient was asked by the Respondent, "If he went camping, and he woke up with Vaseline on his butt, would he tell anyone?" The comment was made in the presence of the patient and the patient's mother. The patient testified the comment made him uncomfortable, and he canceled his appointment. The mother also testified that the comment was inappropriate. A counselor who was seeing the patient also was aware of the statement, talked to the Respondent, and felt that after this comment, the therapeutic relationship was impaired. The Respondent was apparently trying to warn the patient of the possible consequences if he continued to have problems which might result in imprisonment. We find that the statement was a sexually inappropriate statement to make to a young psychiatric patient, and demonstrated a poor exercise of judgment by the Respondent in this matter.

4. Co-worker 1 worked with the Respondent as a clerical employee. In April 2004 the co-worker testified that she was at her desk working with folders in the front office when her panties apparently were exposed. She testified that the Respondent "snapped" her panties. She testified that the Respondent's action made her uncomfortable. She further testified that the Respondent, in October, grabbed her right buttocks cheek, and that the Respondent made suggestive comments to her. The Respondent denied these matters, and a simple assault conviction arising from the snapping incident was subsequently reversed (the conviction was not considered in the deliberations on this matter). We find Co-worker 1 to be a compelling and credible witness, and accept her version of the events which took place. The Respondent's conduct in this situation was clearly inappropriate.

5. The Respondent was ordered, by order dated October 29, 2004, to submit to an evaluation at the Behavioral Medicine Institute in Atlanta (BMI). Although the Respondent is currently in compliance with the BMI requirement, he impeded for a period of time the ability of BMI to conduct its assessment and evaluation. He was required to attend an eight week period of assessment but the Respondent initially attended only one day per week. Further, witness J.S. testified to the low regard the Respondent expressed regarding BMI. The Respondent's conduct in this effort at evaluation was unprofessional initially, although he has since complied with the program.

6. Patient 4's 12 year old daughter was a patient of the Respondent's. In the late spring of

2004, at the invitation of the Respondent, the mother of the patient and her children, including the patient, took a vacation to Orlando, Florida for three days, where they stayed at the Respondent's mother's house. The patient's mother and the Respondent testified that there was no sexual activity or inappropriate relationship. We find that inviting the mother of a psychiatric patient and her children, including the patient, on a vacation is an inappropriate boundary violation for a psychiatric practitioner, and demonstrates very poor judgment on the part of the Respondent.

7. Patient 5 became a patient of the Respondent's in 2004, a short time after her daughter had become a patient of the Respondent's. Her first appointment and prescription was some time in September 2004. A witness, J. M., while working in the office recalled a chart with the patient's name on it, which was kept in the Respondent's office in a drawer, and that there was no billing for the patient. On December 15, 2004, the patient testified that, while her daughter was attended to by an office employee, she engaged in petting with the Respondent on a sofa in his office. This incident was confirmed by witness J. S. who, in coming to the office to visit the Respondent, saw through an open window the Respondent and the patient engaged in petting. The patient testified that the Respondent contacted her on December 18. They went to dinner, then went to his house where they engaged in sex. She testified that on December 19 the Respondent again contacted her, and they had sex at his house on that date. Again on December 20, she related that the Respondent called her, they met at his office, went to dinner, and then had sex at his house. She testified to another incident of sex at the Respondent's house on December 22. On December 28 she testified that they again had sex at his house. The patient testified that there were no further sexual encounters, she ended her relationship as a patient, although her daughter continued treatment with the Respondent until approximately April 2005. Although the Respondent admits that this individual was a patient, he denied having sex with her, and felt that she, Patient 1, and witness J. S. were stalking him. We find that the patient's detailed account is credible. One incident corroborated by another witness who saw them petting at his office bolsters her version of events. We find that the Respondent engaged in sexual conduct with this psychiatric patient of his. This conduct is completely inappropriate.

8. Patient 7 was a psychiatric patient of the Respondent. She had suffered a sexual assault at work, lost her job, had been in a wreck, lost her boyfriend, and suffered post-traumatic stress. She testified that she had been in the Respondent's home and in his bed with him, but had never had sex with him. She testified that she slept in his bed three times. She stated that he had invited her to his house. Witness J. S. testified that she saw the patient in the Respondent's bed. Patient 7 was his patient from July 2004 until his office was closed. The Respondent denied that the patient slept on his bed and that he kissed her. We find that the patient was at the Respondent's house and was in his bed as the patient testified. We find that it was grossly inappropriate for the Respondent to engage in this conduct with a traumatized fragile psychiatric patient who had been previously sexually assaulted.

9. The Respondent claims that he was stalked by three of the people who testified at the hearing. He denies ever having sex with a patient. He testified that his problem was in being too casual

or easy going. He felt that he had hired the wrong people who he was trying to help. He stated that his patients, some of whom have borderline personalities, have boundary problems themselves. He admitted that he may have boundary problems, but had no sex with patients.

10. After the panel hearing, the Respondent presented a brief with accompanying materials as alibi evidence which conflicted with evidence introduced at the panel hearing. R. D.'s affidavit (which is notarized but does not indicate that the statement was sworn) alleges that, on each date an incident of sexual contact between Patient 5 and the Respondent was alleged by Patient 5 to have occurred (December 18, 19, 20, 22, and 28), R. D. and the Respondent were engaged in various activities and they spent the night together. Although R. D.'s account conflicts with that of Patient 5, we find Patient 5's account to be credible, and accept Patient 5's version of events.

11. The unsworn statement of C. G. notes that the Respondent and R. D. and her children had dinner in the restaurant where the witness worked on December 20, 2004. This account also conflicts with that of Patient 5, but the patient's account is regarded as credible and correct.

12. The unsworn statement of A. W., a waiter at another restaurant in Georgia, claims that the Respondent on December 18, 2004 was dining with R. D. and her children. A copy of a Georgia lottery ticket dated December 18, 2004 was also produced. This account also conflicts with that of Patient 5, but the patient's account is regarded as credible and correct.

13. The unsworn statement of D. M. indicated that the movie, *Polar Express*, was being shown at his theater during the month of December 2004. This supports the statement of R. D. that the Respondent could have seen this movie with her and her children on December 22, 2004.

14. Two unsworn statements from C. H. at Bubba's Lotto, Keno, and Games in Lavonia, Georgia stated that the Respondent was with a tall dark haired lady named Rhonda on Saturday (actually, a Friday), July 30, 2004 between 9 p.m. and 2 a.m. and on Sunday, July 31, 2004 about 11 a.m., staying a couple of hours or until about 5 p.m. The statement noted that the Respondent on several occasions during 2004 bought lottery tickets and played video games usually on Saturday night or Sunday. Confirming this was an unsworn statement of R. D. that she was with the Respondent during this entire weekend, and an unsworn statement from R. D.'s babysitter stating that she watched R. D.'s daughters during this weekend so that R. D. could have a free weekend with the Respondent. This evidence was offered to show that Patient 1's claim to have had sex with the Respondent during this period was untrue (Patient 1 also testified to sex at other times). The panel is unpersuaded by the statements, and finds the patient's account to be accurate.

15. The various statements submitted by the Respondent after the hearing generally lack credibility. The witnesses regarding the patients could have been presented at trial. The Respondent knew

from the Complaint that Patient 5 was an alleged sexual victim after September 2004, he also knew that he treated the patient during December of 2004, consequently, he could have presented these witnesses to show his steady relationship with R. D. during the period at issue. Similarly, a steady relationship with R. D. could have been presented at the hearing to contradict the sexual acts with Patient 1. He chose not to produce these witnesses. Instead, after the hearing has been concluded, he has presented unsworn statements of persons who have not been subjected to cross examination by the State or questioning by the panel. Additionally, the statements focus primarily on the testimony of Patient 5, while the evidence in this case shows a pervasive problem with improprieties of a sexual nature with several individuals, not just Patient 5, or Patient 1.

16. Subsequent to the Respondent's submission of the brief and materials mentioned above, a letter dated March 27, 2006 was sent by the Respondent in response to the State's reply brief. In this letter the Respondent raised the argument (previously raised at the panel hearing) that he had not received adequate notice of the details of the State's case, and, among other matters, requested another hearing as to the charges relating to Patients 1 and 5. For the reasons stated above, the Panel found that an additional hearing and testimony were not warranted in this matter. At the hearing before the full Board the Respondent again requested that the case be remanded to a panel for further hearing. We find, as did the panel, that an additional hearing and testimony are not warranted. The Respondent's misconduct has been overwhelmingly proven by the State, and demonstrates a pervasive and extreme pattern of behavior which is a clear danger to the public.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. §40-47-200, supra, has the authority to order the revocation or suspension of a license to practice medicine or osteopathy, publicly or privately reprimand the holder of a license, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board or imposing restraint upon the medical or osteopathic practice of the licensee as circumstances warrant until the licensee demonstrates to the Board adequate professional competence. Additionally, the Board may require the licensee to pay a civil penalty of up to ten thousand dollars to the Board and the costs of the disciplinary action.

2. The Respondent has violated S.C. Code Ann. §§40-47-200(F)(6), (7), (8), and (12), and Regulations No. 81-60(A), (C), and (D) of the Rules and Regulations of the Board of Medical Examiners, in the following particulars:

A. The Respondent has violated S.C. Code Ann. §40-47-200(F)(6) in that he has sustained a physical or mental disability which renders further practice dangerous to the public, as evidenced by his inappropriate sexual behavior as described above.

B. The Respondent has violated S.C. Code Ann. §§40-47-200(F)(7) and (12), in that he has violated the following Principles of Medical Ethics adopted by the Board:

(1) Regulation 81-60(A), in that he did not provide competent medical service with compassion and respect for human dignity, as evidenced by his inappropriate sexual behavior with psychiatric patients and co-worker and failure to recognize proper physician/patient boundaries.

(2) Regulation 81-60(C), in that he failed to respect the law, as evidenced by his inappropriate sexual behavior with psychiatric patients and failure to recognize proper physician/patient boundaries.

(3) Regulation 81-60(D), in that he failed to respect the rights of patients and colleagues, as evidenced by his inappropriate sexual behavior with psychiatric patients and co-worker, and failure to recognize proper physician/patient boundaries.

C. The Respondent has violated S.C. Code Ann. §40-47-200(F)(8), in that he engaged in dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public, as evidenced by his inappropriate sexual behavior with psychiatric patients and co-worker, and failure to recognize proper physician/patient boundaries.

3. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified medical doctors against the countervailing concern that society be protected from professional ineptitude and misconduct.

4. The sanction imposed is designed not to punish the physician, but to protect the life, health, and welfare of the people at large.

5. **SANCTION.** Inappropriate sexual behavior and serious sexual boundary violations by physicians are grievous disciplinary matters. They strike at the heart of the physician/patient relationship, and call into question the objectivity of the medical treatment rendered. The case presented here is egregious and pervasive in nature, and justifies the most serious of sanctions in order to protect the public. Sexual conduct that occurs concurrent with the physician-patient relationship constitutes sexual misconduct. Sexual or romantic interactions between physicians and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective

judgement concerning the patient's health care, and ultimately may be detrimental to the patient's well-being. This behavior cannot be tolerated in the medical profession, is a significant threat to the public, and warrants the revocation of the Respondent's license. The Respondent's sexual misconduct is extensive and egregious, and revocation is necessary to assure that there can be no repetition of the misconduct in a medical context, and that the public is protected from harm. No mere limitations on the type of medical practice, or requirement of the presence of chaperones, would be sufficient to protect the public given the extent of the misconduct at issue in this matter.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The Respondent's license to practice medicine in this State shall be, and hereby is, revoked immediately.
2. The Respondent shall pay a fine of Ten Thousand and No/100 Dollars (\$10,000.00) within one year of the date of this order. This fine shall not be deemed paid until received by the Board.
3. The Respondent shall pay administrative costs of Eight Thousand Five Hundred and Fifty-Two and 92/100 Dollars (\$8,552.92) within one year of the date of this order. These costs shall not be deemed paid until received by the Board.
4. This final order shall take effect upon service of this order upon the Respondent or his counsel.

AND IT IS SO ORDERED.

STATE BOARD OF MEDICAL EXAMINERS

BY: Satish M. Prabhu M
Satish M. Prabhu, M.D.
President of the Board

6/7/ 2006.